

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

Charles Krik

Plaintiff,

v.

Cause No. 01 MDL 875

BP Amoco Chemical Company , a corporation,  
Bechtel Construction Company , a corporation,  
CBS Corporation , a corporation,  
Certainteed Corporation , a corporation,  
Cleaver Brooks, Inc., a corporation,  
Crane Co., a corporation,  
ExxonMobil Oil Corporation , a corporation,  
Ingersoll Rand Company , a corporation,  
Owens-Illinois Inc., a corporation,  
Rapid American Corporation , a corporation,  
The Marley-Wylain Company a/k/a/ Weil-  
McLain Company , a corporation,  
Trane U.S. Inc., a corporation,  
Union Carbide Corporation , a corporation,

Case No. 11-CV-63473

*Trans. from IL-ND Case No. 10-07435*

Defendants.

**FIRST AMENDED COMPLAINT**

Now comes the plaintiff, Charles Krik (hereinafter "Plaintiff"), by and through his attorneys, Cascino Vaughan Law Offices, Ltd., and complains against defendants BP Amoco Chemical Company, a corporation, Bechtel Construction Company , a corporation, CBS Corporation , a corporation, Certainteed Corporation , a corporation, Cleaver Brooks, Inc., a corporation, Crane Co., a corporation, ExxonMobil Oil Corporation , a corporation, Ingersoll Rand Company , a corporation, Owens-Illinois Inc., a corporation, Rapid American Corporation , a corporation, The Marley-Wylain Company a/k/a/ Weil-McLain Company , a corporation, Trane U.S. Inc., a corporation, and Union Carbide Corporation , a corporation, as follows:

### JURISDICTION

1. Plaintiff Charles Krik is an adult citizen and resident of Illinois and resides in Braidwood, Illinois.
2. Defendants are all corporations, none of which is incorporated in or has its principal place of business in the State of Illinois, and at all times relevant to the allegations contained herein were engaged in the business of designing, manufacturing, mining and selling asbestos and/or asbestos-containing products and/or asbestos-insulated equipment, hereinafter referred to as "asbestos products." Please refer to the attached Exhibit A for the state of incorporation and principal place of business of each defendant.
3. Jurisdiction is based on diversity of citizenship of the parties hereto under Title 28, United States Code, §1332.
4. The amount in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.
5. Venue is proper pursuant to Title 28, United States Code, §1391.

### GENERAL ALLEGATIONS

6. Plaintiff during the course of his employment as a pipefitter at various job sites, including those listed on the attached Exhibit B was exposed to asbestos dust or fibers emanating from the asbestos products and/or asbestos insulated equipment which was sold, manufactured, mined, distributed, packaged, installed or otherwise placed into commerce by defendants.
7. Plaintiff was ignorant of the dangerous nature of asbestos and of the nature of the risks incurred by workers working with or near asbestos products.
8. Plaintiff became aware of the asbestos-related condition and that said condition was caused by Defendants' wrongful conduct within the statute of limitations before the filing of this action.
9. As a direct and proximate result of the conduct of Defendants, Plaintiff developed and had been diagnosed with lung cancer on 11/21/2008.

10. Plaintiff suffers great pain, physical impairment, great mental pain and anguish, is liable for large sums of money for medical and hospital care, and suffered losses to his personal property and possessions.

**COUNT I - PRODUCTS LIABILITY - NEGLIGENCE**

11. Plaintiff brings this count for negligence against all defendants except BP Amoco Chemical Company and ExxonMobil Oil Corporation, and incorporates by reference all general allegations.
12. It was reasonably foreseeable that Plaintiff and other workers would be working with or in the proximity of defendants' asbestos products and be exposed to airborne asbestos fibers.
13. Defendants had a duty to exercise reasonable care for the safety of Plaintiff and others who worked with or were exposed to the defendants' asbestos products.
14. Defendants knew or in the exercise of ordinary or reasonable care ought to have known asbestos causes disease and or death, and that Plaintiff did not know that asbestos products were dangerous or harmful at the time of his exposures.
15. Each defendant breached its duty of care and was negligent, including without limitation in one or more of the following acts or omissions:
  - a. Failed to adequately warn Plaintiff or others of the health hazards of asbestos;
  - b. Failed to warn Plaintiff or others of the danger and harm of the asbestos after the products or equipment were installed at the premises;
  - c. Failed to investigate or test for the health effects of asbestos prior to distribution and sale;
  - d. Failed to instruct Plaintiff, his employers or others in the use of precautionary measures relating to asbestos-containing products and/or asbestos-insulated equipment; and/or
  - e. Manufactured, mined, supplied, or installed unsafe asbestos-containing products

or asbestos-insulated equipment.

16. As a direct and proximate result of the acts and omissions of the product defendants above, plaintiff was injured as described above.

**COUNT II - NEGLIGENCE - PREMISE OWNER**

17. Plaintiff reasserts and realleges the above general allegations 1-16 above.
18. This claim for negligence is brought against the following Defendants (Hereinafter "Premise Defendants");
- a. BP Amoco Chemical Company
  - b. ExxonMobil Oil Corporation
19. Defendant was the owner of the premise during the dates and times of Plaintiff's exposures to asbestos indicated on exhibit B.
20. The condition of airborne dust containing asbestos insulation fibers released during the process of applying and removing thermal insulation existed at the premises in exhibit B.
21. When Plaintiff worked at the premises, defendant knew or should have known about the health hazards of asbestos.
22. Defendant in the exercise of ordinary care knew or should have known that the condition of its property involved an unreasonable risk of harm to persons on the premises, including employees of independent contractors such as Plaintiff, working at the premises.
23. Defendant knew or should have known that persons on the premises would not discover or realize the danger or would otherwise fail to protect themselves against it.
24. As the owner of the premises, defendant owed a duty to use ordinary care to provide a reasonably safe place for persons lawfully on the property, including Plaintiff.

25. Defendant breached its duty of care and was negligent by one or more of the following acts or omissions:
- 26.
- a. failing to adequately warn Plaintiff of the dangers of harm from exposure to asbestos;
  - b. failing to instruct Plaintiff adequately about safety precautions for exposure to asbestos;
  - c. failing to establish adequate safety measures to protect Plaintiff from exposure to asbestos;
  - d. failing to adequately test for asbestos where Plaintiff worked;
  - e. employing any contractor which failed to take reasonable precautions against the danger of asbestos;
  - f. allowing the use of asbestos containing products at the premises;
  - g. failing to assign or hire personnel qualified to recognize, evaluate and control asbestos exposures at the premises.
27. As a direct and proximate result of the acts and omissions of the product defendants above, Plaintiff was injured as described above.

**PRAYER FOR RELIEF**

28. Plaintiff prays for relief as follows:
- a. Judgment against defendants, jointly and severally, for compensatory and general damages.
  - b. Such further legal and equitable relief as the Court orders to do justice in this case; costs and disbursements of this action.

**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by a jury of 6.

Dated: July 29, 2011

/S/ Michael P. Cascino  
One of the Plaintiff's Attorneys

Michael P. Cascino  
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**Exhibit A**  
**Defendants' Home States and Principal Places of Business**

Defendant	StateHdq	StatePrincBus
BP Amoco Chemical Company	Delaware	Texas
Bechtel Construction Company	Nevada	California
CBS Corporation	Delaware	Pennsylvania
Certainteed Corporation	Delaware	Pennsylvania
Cleaver Brooks, Inc.	Delaware	Wisconsin
Crane Co.	Delaware	Connecticut
ExxonMobil Oil Corporation	New York	Texas
Ingersoll Rand Company	New Jersey	New Jersey
Owens-Illinois Inc.	Delaware	Ohio
Rapid American Corporation	Delaware	New York
The Marley-Wylain Company a/k/a/ Weil-McLain Company	Delaware	North Carolina
Trane U.S. Inc.	Delaware	New Jersey
Union Carbide Corporation	New York	Texas

**Exhibit B**  
**Plaintiff's work history**

SiteLocation	SiteCity	SiteSt	FirstYrId	LastYrId
American Maize Products	Hammond	IN	1954	1996
Amoco Chemical Refinery	Joliet	IL	1954	1996
Azteca Foods, Inc.	Chicago	IL	1960's	1970's
Bethlehem Steel	Burns Harbor	IN	1993	1997
Braidwood Nuclear Power Station	Braidwood	IL	1970	2001
Collins Power Station	Morris	IL	1954	1996
Corn Products Unit	Summit	IL	1954	1996
Dresden Nuclear Power Station	Morris	IL	1954	2001
Entemanns	Northlake	IL	1954	1996
Gary Works	Gary	IN	1954	1997
Inland Steel	East Chicago	IN	1954	1997
J & L Steel	East Chicago	IN	1954	1996
Joliet 9 Power Station	Joliet	IL	1954	1996
LaSalle Nuclear Power Station	Seneca	IL	1954	1996
Mobil Oil Refinery	Joliet	IL	1954	1996
Quantum Chemical	Morris	IL	1989	1990
Royal Crown Cola	Chicago	IL	1960's	1970's
Searle Food Resource	University Park	IL	1954	1996
Shell Refinery	Joliet	IL	1988	1989
South Works Steel Plant	Chicago	IL	1975	1997
State Line Power Station	Hammond	IN	1954	1996
Stauffer Chemical	Chicago Heights	IL	1954	1996
Stepan Chemical	Millsdale	IL	1954	1996
Stone Container Corporation	Chicago	IL	1960's	1970's
Tinley Park State Hospital	Tinely Park	IL	1954	1996



SiteLocation	SiteCity	SiteSt	FirstYrId	LastYrId
U Of Illinois Medical Center	Chicago	IL	1954	1996
U.S.S. Bryce Cannon	Longbeach	CA	1963	1967
Union Oil Refinery	Lemont	IL	1981	1982
Zion Nuclear Power Station	Zion	IL	1970	2001